

the action requested of the Assistant Commissioner. In the case of a dispute, the party submitting the petition to us must concurrently provide a copy of the petition to the other concerned parties. The other concerned parties may submit to the Assistant Commissioner a rebuttal within 90 days of the date of the petition. The rebuttal must include a concise factual statement, not to exceed 15 pages, with supporting documentation in the appendices.

(c) The Assistant Commissioner will review the Petition, any rebuttal, and all supporting documentation. As part of the review process, the Assistant Commissioner may request to meet with any or all parties and may request additional information.

(d) The Assistant Commissioner will issue a written decision within the later of 120 days of the date of the Petition or the rebuttal, in case of a dispute, or 120 days from receipt of any additional information. The Assistant Commissioner's decision will be the final program agency action on our part for purposes of judicial review procedures under the Administrative Procedures Act, 5 U.S.C. 701-706 (APA), unless either the State or Federal Program Agency invokes the provisions of the Administrative Dispute Resolution Act of 1990 (ADRA), 5 U.S.C. 581-593.

(e) Either a State or Federal Program Agency may seek to invoke the provisions of the ADRA within 45 days after the date of the Assistant Commissioner's written decision.

(1) The party invoking the ADRA must notify the Assistant Commissioner and any other concerned parties in writing. If all parties, including the Assistant Commissioner, agree in writing, a neutral party appointed under the provisions of the ADRA may assist in resolving the dispute through the use of alternate means of dispute resolution as defined in the ADRA.

(2) If the party invoking the ADRA is unable to reach a satisfactory resolution, the Assistant Commissioner's decision will be the final agency action on our part for purposes of the judicial review procedures under the APA.

(f) Any amount due as a result of an appeal or dispute must be paid within 30 days of the date of the decision of the Assistant Commissioner or the

date of the resolution under the ADRA. If a State fails to pay, the State will be subject to collection techniques under 31 U.S.C. 3701 *et seq.*, including accrual of interest on outstanding balances and administrative offset.

### **Subpart B—Rules Applicable to Federal Assistance Programs Not Included in a Treasury-State Agreement**

#### **§ 205.32 What Federal assistance programs are subject to this subpart B?**

This subpart B applies to all Federal assistance programs listed in the Catalog of Federal Domestic Assistance that are not subject to subpart A of this part.

#### **§ 205.33 How are funds transfers processed?**

(a) A State must minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for Federal program purposes. A Federal Program Agency must limit a funds transfer to a State to the minimum amounts needed by the State and must time the disbursement to be in accord with the actual, immediate cash requirements of the State in carrying out a Federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a State's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs. States should exercise sound cash management in funds transfers to subgrantees in accordance with OMB Circular A-102 (For availability, see 5 CFR 1310.3.).

(b) Neither a State nor the Federal government will incur an interest liability under this part on the transfer of funds for a Federal assistance program subject to this subpart B.

#### **§ 205.34 What are the Federal oversight and compliance responsibilities?**

(a) A Federal Program Agency must review the practices of States as necessary to ensure compliance with this subpart B.

(b) A Federal Program Agency must notify us if a State demonstrates an

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unwillingness or inability to comply with this subpart B.

(c) A Federal Program Agency must formulate procedural instructions specifying the methods for carrying out the responsibilities of this section.

### § 205.35 What is the result of Federal Program Agency or State non-compliance?

We may require a State and a Federal Program Agency to make the affected Federal assistance programs subject to subpart A of this part, consistent with Federal assistance program purposes and regulations, notwithstanding any other provision of this part, if:

(a) A State demonstrates an unwillingness or inability to comply with this subpart B; or

(b) A Federal Program Agency demonstrates an unwillingness or inability to make Federal funds available to a State as needed to carry out a Federal assistance program.

## Subpart C [Reserved]

## PART 206—MANAGEMENT OF FEDERAL AGENCY RECEIPTS, DISBURSEMENTS, AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

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AUTHORITY: 5 U.S.C. 301; 31 U.S.C. 321, 3301, 3302, 3321, 3327, 3328, 3332, 3335, 3720, and 6503.

SOURCE: 59 FR 4538, Jan. 31, 1994, unless otherwise noted.

### § 206.1 Scope and application.

(a) This subpart applies to all Government departments and agencies in the executive branch (except the Tennessee Valley Authority) and all mon-

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ies collected and disbursed by these departments and agencies. This subpart does not apply to interagency transfers of funds, except that agencies are to use the Treasury's On-Line Payment and Collection (OPAC) system for interagency payments between executive agencies, when cost-effective.

(b) Policies and guidelines are prescribed for promoting efficient, effective cash management through improved billing, collection, deposit, and payment of funds. These objectives seek to improve funds availability and the efficiency and effectiveness with which funds are transferred.

(c) Authority to implement this regulation has been delegated within the Department of the Treasury (hereinafter, "Treasury") to the Commissioner (hereinafter, "the Commissioner") of the Financial Management Service (hereinafter, "the Service"). The Service maintains the final authority as granted under the Deficit Reduction Act of 1984 to specify use of a particular method or mechanism of collection and deposit and to recover costs that result from noncompliance. Authority is also granted to the Service, under the Cash Management Improvement Act of 1990, as amended by the Cash Management Improvement Act Amendments of 1992, to provide for the timely disbursement of funds. An agency will require the collection or disbursement of funds by the agency via EFT as a provision of new contractual agreements or renewal of existing contracts that impact agency collection or payment mechanisms.

### § 206.2 Definitions.

For the purpose of this part, the following definitions apply:

*Agency* means any department, instrumentality, office, commission, board, service, Government corporation, or other establishment in the executive branch, except the Tennessee Valley Authority.

*Billing* means any of a variety of means by which the Government places a demand for payment against an entity that is indebted to the Government. The term encompasses invoices, notices, initial demand letters, and other forms of notification.